



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

TEXAS HEALTH ALLIANCE

Respondent Name

INDEMNITY INSURANCE COMPANY
OF NORTH AMERICA

MFDR Tracking Number

M4-18-0292

Carrier's Austin Representative

Box Number 15

MFDR Date Received

October 4, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Claim denied for timely filing, however this is a physical therapy claim which is billed monthly and with a discharge date of 11/30/16, the 95 day timely filing limit expired March 5, 2017; This claim was submitted electronically on 2/27/17."

Amount in Dispute: \$3,844.77

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "only the last date of service counts toward the timely filing requirement. . . . The Carrier did issue payment for the dates of service 11/28/16 and 11/30/16, which was mailed on 8/10/17."

Response Submitted by: Downs Stanford, P.C.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Dispute Amount	Amount Due
November 3, 2016 to November 30, 2016	Outpatient Hospital Occupational Therapy Services	\$3,844.77	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403 sets out the acute care hospital fee guideline for outpatient services.
3. 28 Texas Administrative Code §134.203 sets out the fee guideline for professional medical services.
4. 28 Texas Administrative Code §133.20 sets out medical bill submission procedures for health care providers.
5. 28 Texas Administrative Code §102.3 sets rules for computation of due dates and time periods.
6. 28 Texas Administrative Code §102.4 establishes rules for non-Commission communications.
7. Texas Labor Code §408.027 sets out provisions related to payment of health care providers.
8. Texas Labor Code §408.0272 provides for certain exceptions to untimely submission of a medical claim.

9. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
- W3 – ADDITIONAL PAYMENT MADE ON APPEAL/RECONSIDERATION.
 - 29 – THE TIME LIMIT FOR FILING HAS EXPIRED
 - 193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.
 - 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
 - P12 – WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT
 - P341 – Internal Use Only
 - 1001 – Based on the corrected billing and/or additional information/documentation now submitted by the provider, we are recommending further payment to be made for the above noted procedure code.

Issues

1. What is the timely filing deadline applicable to the medical bills for the services in dispute?
2. Did the requestor forfeit the right to reimbursement for the services in dispute?

Findings

1. The insurance carrier denied the disputed services with claim adjustment reason codes:

- 29 – “THE TIME LIMIT FOR FILING HAS EXPIRED.”

28 Texas Administrative Code §133.20(b) requires that, except as provided in Texas Labor Code §408.0272, “a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.”

Texas Labor Code §408.0272(b) provides that, notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if:

- (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with:
 - (A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured;
 - (B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or
 - (C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title; or
- (2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider.

No documentation was presented to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in dispute. For that reason, the health care provider was required to submit the medical bill not later than 95 days after the date(s) the disputed services were provided.

2. Texas Labor Code §408.027(a) states that “Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment.”

28 Texas Administrative Code §102.4(h) states that, unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on:

- (1) the date received, if sent by fax, personal delivery or electronic transmission

28 Texas Administrative Code §102.3(a)(3) requires that due dates and time periods under the Workers' Compensation Act be computed as follows: “if the last day of any period is not a working day, the period is extended to include the next day that is a working day.”

Review of the submitted information finds, pursuant to Rule §102.4(h), that the great weight of evidence supports the claims were sent and accepted electronically on February 27, 2016 by the insurance carrier's agent. The 95th day following service date November 23, 2016 was Sunday, February 26, 2017. As Sunday was not a working day, per Rule §102.3(a)(3), the filing period was extended to include the next working day, Monday, February 27, 2017. The claims were sent on that date. As this was within the timely filing period for the November 23rd service date, the division finds this bill was timely submitted to the insurance carrier.

Accordingly, the division finds that dates of service November 3rd, November 7th and November 16th, 2016 were not timely submitted to the insurance carrier. Consequently, the requestor has forfeited the right to reimbursement due to untimely submission of the medical bills, pursuant to Texas Labor Code §408.027(a).

However, the division finds dates of service November 23rd, November 28th, and November 30th, 2016, were timely submitted to the insurance carrier. The health care provider has not forfeited the right to reimbursement for these services, which will therefore be reviewed for payment according to applicable division rules and fee guidelines.

3. This dispute regards outpatient hospital facility services with payment subject to 28 Texas Administrative Code §134.403, which requires the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount (including outlier payments) applying the effective Medicare Outpatient Prospective Payment System (OPPS) formula and factors, published annually in the Federal Register, with modifications as set forth in the rule. Medicare OPPS formulas and factors are available from <http://www.cms.gov>.

The occupational therapy services billed have Medicare payment status indicators of A, denoting services paid by Physician Fee Schedule, instead of OPPS. If Medicare pays using other systems than OPPS, Rule §134.403(h) requires use of the DWC fee guideline applicable to that service on the date provided. Professional services are paid under DWC Professional Fee Guidelines, Rule §134.203(c).

Per Medicare payment policy, when more than one unit of designated therapy services is billed on the same day, the first unit of the procedure with the highest practice expense is paid in full. Payment for the practice expense of each subsequent unit is reduced by 50%.

Reimbursement for the disputed services is calculated as follows:

- Procedure code 97022, November 23, 2016, does not have the highest practice expense for this date. The reduced rate for this code for 2016 is \$14.95, divided by the Medicare conversion factor of 35.8279 and multiplied by the DWC conversion factor of 56.82 results in a MAR of \$23.71
- Procedure code 97022, November 28, 2016, does not have the highest practice expense for this date. The reduced rate for this code for 2016 is \$14.95, divided by the Medicare conversion factor of 35.8279 and multiplied by the DWC conversion factor of 56.82 results in a MAR of \$23.71
- Procedure code 97022, November 30, 2016, does not have the highest practice expense for this date. The reduced rate for this code for 2016 is \$14.95, divided by the Medicare conversion factor of 35.8279 and multiplied by the DWC conversion factor of 56.82 results in a MAR of \$23.71
- Procedure code 97110, November 23, 2016, has the highest practice expense for this date. The Medicare rate for this code for 2016 is \$32.44. Each additional unit is paid at \$24.60. Medicare's rate for 2 units is \$57.04, divided by the Medicare conversion factor of 35.8279 and multiplied by the DWC conversion factor of 56.82 results in a MAR of \$90.46
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 - Procedure code 97140, November 23, 2016, does not have the highest practice expense for this date. The reduced rate for this code for 2016 is \$22.89, divided by the Medicare conversion factor of 35.8279 and multiplied by the DWC conversion factor of 56.82 results in a MAR of \$36.30
 - Procedure code 97140, November 28, 2016, does not have the highest practice expense for this date. The reduced rate for this code for 2016 is \$22.89, divided by the Medicare conversion factor of 35.8279 and multiplied by the DWC conversion factor of 56.82 results in a MAR of \$36.30
 - Procedure code 97140, November 30, 2016, does not have the highest practice expense for this date. The reduced rate for this code for 2016 is \$22.89, divided by the Medicare conversion factor of 35.8279 and multiplied by the DWC conversion factor of 56.82 results in a MAR of \$36.30
4. The total recommended reimbursement for the disputed services is \$451.41. The insurance carrier has paid \$526.09 leaving an amount due to the requestor of \$0.00. Additional payment is not recommended.

Conclusion

For the reasons stated above, the division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the division hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

	Grayson Richardson	October 27, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form DWC045M) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §141.1(d).**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.